

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
September 3, 2002

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:02 p.m., Tuesday, September 3, 2002, in the Board Room, York Hall, by Chairman Donald E. Wiggins.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

Invocation. Fire Chief Stephen Kopczynski made a few remarks concerning the tragic events of September 11, 2001, and asked that those individuals who lost their lives that day or those whose lives were affected through the loss of friends and loved ones be remembered through a moment of silence.

Pledge of Allegiance to the Flag of the United States of America. Deputy Tommy West, York County Sheriff's Office, led the Pledge of Allegiance.

PRESENTATIONS

INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

Chairman Wiggins welcomed and introduced the following new Boards and Commissions members and presented them with York County pins and Boards and Commissions handbooks:

Mary Clark	Colonial Services Board
Penny Dennis	Transportation Safety Commission
Sherman Hill	Historical Committee (Associate)
Reinhold Tajovsky	Historical Committee (Associate)

COMMENDATION OF FORMER BOARD/COMMISSION MEMBER

Chairman Wiggins read aloud Resolution R02-141 commending Mr. David E. Reubush for his past service to the York County Transportation Safety Commission and presented him with a bound and sealed copy of the resolution.

CITIZENS COMMENT PERIOD

Ms. Elizabeth Chisolm, representing the Jamestown 4-H Center, appeared to announce that on Saturday, September 7, the 4-H Center would host a Family Fun Day Folk Festival at the

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Center from 11:00 a.m. to 9:00 p.m., and she invited the Board of Supervisors and all York County residents to attend to help raise funds for 4-H programs.

Ms. Jeanette Carter, 819 Baptist Road, asked the Board members if they had received any information concerning the Newport News Waterworks water restrictions.

Chairman Wiggins indicated the Board had not received any information at this time.

Mrs. Carter asked that the citizens be kept informed of any information that came from Newport News concerning water restrictions that would impact County residents.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett discussed the Executive Order issued by the Governor concerning the emergency because of extreme drought conditions within the Tidewater area. He spoke of the prohibitions the order instituted, but noted that local governing bodies would have to enact an ordinance establishing penalties and fines. He stated that other local government attorneys are questioning the role of local governments because the State is the enforcement entity. Mr. Barnett then noted that September 13 had been set as the deadline date for suggested items for the 2003 Legislative Program. He stated he and Mr. McReynolds would be developing the program based on input received by that time from the Board and staff.

Mr. Zaremba addressed the Governor's mandatory water restrictions and questioned the enforcement capability of the County if the Governor has not given it the means to enforce his edicts. He noted that the residents of Queens Lake and Parkway Estates have already established self-imposed restrictions on the use of water.

Mrs. Noll agreed that an effective means of enforcement is through peer pressure.

Mr. Barnett indicated he would keep the Board apprised of any other information he received concerning this matter.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board members that on September 11 the County would be hosting a ceremony to commemorate the tragic events of September 11, 2001, and those who so gallantly responded to the terrorist attacks. He stated the ceremony would take place at 7:00 p.m. on the Courthouse Green on Ballard Street. Mr. McReynolds also reminded the Board of its two upcoming work sessions to be held on September 10 and September 24.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll personally thanked Mr. Reubush for his past service on the Transportation Safety Commission and its input to the County's legislative programs, noting she had supported the photo-red light bill for many years. She stated she spoke to a group of women last week who were newcomers into the area concerning the transportation referendum, and indicated she would be happy to come and speak to groups if asked. Mrs. Noll stated she attended the Peninsula Chamber Salute to the Military, noting it was a heartwarming event recognizing the

area's military members. She commended the Celebrate Yorktown Committee for arranging for the Virginia Symphony concert that was held recently; the concert was free to area residents, and the performance was wonderful. She also thanked Ms. Cheryl Sonderman, Parks and Recreation Division of Community Services, for her quick response when the electricity went out, seeing that the performance continued. Mrs. Noll suggested that the citizens put this event on their calendars for next year.

Mr. Zaremba reminded the citizens that the Board is getting ready to begin its deliberations on the Fiscal Year 2004 budget in early October. He stated the State is in a very deep budget crisis, and the County has been told that over the next two budget years it will be \$2 - 2 ½ billion short in revenues compared to projected expenditures. He noted that the Daily Press ran an interesting series of editorials concerning the State's tax structure and budget crisis, and he encouraged the citizens to read them. Mr. Zaremba spoke concerning the many entities that are exempt from paying sales and use taxes and the many businesses that are exempt from paying personal property taxes which impacts negatively on the State revenue situation. He reviewed some of the areas that will be hit hard by the budget reductions, such as education, transportation, and public safety. Mr. Zaremba questioned the status of lottery revenues that were supposed to be used for education.

Mr. Burgett announced that it was his 41st wedding anniversary, and he thanked his wife Dana for 41 great years. He noted that on September 4 from 4:00 to 8:00 p.m. the York County Business Association would be hosting its annual Autumn Fest which provides a wonderful chance to eat great food while meeting with other business people in the community. In follow-up to the comments by Mrs. Noll and Mr. Zaremba, he stated he, too, had been inundated with information on the transportation referendum. He stated it generates certain questions for him and things that need to be thought about seriously. He indicated it is a problem that the General Assembly must address because it is their responsibility to find ways to pay for the road system in the state and its improvements. Mr. Burgett stated the referendum will allow the County to increase its sales tax, but it equates to a 22 percent tax increase in York County. He spoke of the road projects to be undertaken with this new revenue, noting that the only one affecting the local area would be the widening of Interstate-64. He stated it was hard to put any hard costs on the projects because of the increasing construction costs. Another problem, he stated, was that the General Assembly could redirect the referendum funding at any time; and the General Assembly has already in the past pulled money out of the Transportation Trust Fund to work on the budget deficit. Mr. Burgett stated he would prefer that the General Assembly do something more with tolls or the gasoline tax, something that splits the cost out to the users.

Mr. Shepperd announced that an information briefing on the West Nile Virus had been scheduled for 7:00 p.m. on Wednesday, September 18, in the auditorium of Tabb High School. He stated that personnel from the County's Mosquito Control Division, as well as representatives from the Health Department, would be present to discuss the pathology of the disease, how to identify the symptoms, who is susceptible, and what the local government is doing about it. There will also be time for citizens to ask questions of the experts in attendance. Mr. Shepperd noted he would be out of town next week visiting his daughter in Utah and would miss the work session and the remembrance/recognition ceremonies that will take place on September 11. He asked all citizens to take the opportunity to remember the tragic events of September 11, 2001, and the lives it affected then and now.

Chairman Wiggins agreed that everyone is concerned about taxes, and no one knows what the State is going to do. He stated there is a proposed 7-15 percent reduction to take place, but no one knows in which areas the reductions will occur. Mr. Wiggins stated he felt running the

State is like running a business, and when business is bad, cuts are not made across the board. He stated funding needs to be kept for programs such as public safety, juvenile justice, and education where progress is being made which will affect the future of the citizenry. He noted the burden would fall on the Board of Supervisors, and its only option would be to raise real estate taxes. There will not be enough money to make up for all the state shortfalls, and the county residents need to let the General Assembly know that there are certain areas of the budget where reductions cannot be made, and he suggested that the citizens write letters to their legislators.

Meeting Recessed. At 8:03 p.m. Chairman Wiggins declared a short recess.

Meeting Reconvened. At 8:12 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

APPLICATION NOS. CP-8-02 AND ZM-66-02, YORK COUNTY BOARD OF SUPERVISORS

Mr. J. Mark Carter, Planning and Zoning Manager, made a presentation on Application Nos. CP-8-02 to amend the Comprehensive Plan to change the commercial land use designation on Old Williamsburg Road to General Business and to amend the areas of Church Road and Dogwood Road to the General Business designation, and ZM-66-02 to amend the York County Zoning Map by reclassifying approximately 27 acres of land located on Williamsburg Road to General Business. He stated a community meeting was held in Lackey on July 9, and questions of the residents were answered at that time. No adverse comments have been received on the proposal. The Planning Commission considered the applications and forwarded them to the Board of Supervisors with recommendations of approval, and staff recommended approval of the applications through the adoption of proposed Ordinance Nos. 02-14 and 02-15, respectively.

Chairman Wiggins then called to order a public hearing on Application No. CP-8-02 which was duly advertised as required by law. Proposed Ordinance No. 02-14 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. CP-8-02 TO AMEND CHARTING THE COURSE TO 2015: THE YORK COUNTY COMPREHENSIVE PLAN TO CHANGE THE COMMERCIAL AREA DESIGNATION IN LACKEY FROM LIMITED BUSINESS TO GENERAL BUSINESS AND TO EXPAND THE GENERAL BUSINESS DESIGNATION TO ENCOMPASS AN ADJACENT AREA CURRENTLY DESIGNATED HIGH DENSITY RESIDENTIAL

There being no one present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mr. Zaremba asked what kind of infrastructure was in the area to support the business designation.

Mr. Carter indicated all the areas proposed for rezoning have all utilities available to them. He also stated the road access provides good connectivity to Route 17 and I-64.

Mr. Zaremba expressed his main concern about Dogwood Road, stating it was very narrow and could not accommodate added traffic. He asked Mr. Carter if it was possible that a business could have its frontage on Dogwood.

Mr. Carter indicated it was possible.

Mr. Zaremba stated he felt that Dogwood was a death trap, an accident waiting to happen. When the Board considers a general business designation, the area should have as a precondition the infrastructure that will support it. He stated there should be something near term in the plan that will improve the road system if it needs improving. He asked if there was any discussion between the County and VDOT concerning the widening of Dogwood Road.

Mr. Carter stated there was nothing planned at this time because Dogwood is a secondary road. He stated the Board could consider it as one of its Secondary Road Improvement Projects.

He noted the parcel that Mr. Zaremba referred to has frontage on Route 238. While it was possible that the access could be on Dogwood, Mr. Carter stated the staff would work to place the driveway to a business on Route 238.

Discussion followed on the condition of Dogwood Road and development on it currently taking place.

Mr. Shepperd stated Mr. Zaremba brought up a good point concerning the condition of the roads in a development area coming behind the development itself instead of being looked at up front prior to the development. He stated Dogwood is only about 13 feet wide, and it will get widened and paved as demanded by development. When a developer comes in, he noted the County generally tries to partner with them so that it is in the developer's best interest to pay for some of these improvements. Mr. Shepperd stated he felt certain that improvements that will be required would be addressed during development. He stated the Planning Division will work with the community to develop the correct service provision for the area.

Mr. Burgett stated the County will encourage access to Route 238 for the property in question. The benefits the community will receive from being a HUBZone in terms of business and other commercial outlets will far outweigh such a minor issue. If a developer wishes to use Dogwood Road as an access, it could be a proffer by the developer that he improve the road for better public access. Mr. Burgett stated he also felt Mr. Zaremba was right, and perhaps the County should look at the road in the Secondary Road Program. He stated he would like the Board to approve this rezoning because of the benefits to the community.

Mrs. Noll stated she was delighted with the proposal, and agreed that any Dogwood Road access issue could be addressed during the development stage.

Chairman Wiggins noted he had the opportunity to meet with the citizens of the community, and all were very much in favor of the proposal. He stated Lackey is a rural area, and a lot of people have no means of transportation. He indicated this would be a tremendous opportunity to open up some jobs for them where the residents could walk to work.

Mr. Zaremba stated he was not against the rezoning, but his comments were directed at missed opportunities for up-front improvements needed for current development taking place on Dogwood Road.

Mrs. Noll moved the adoption of proposed Ordinance No. 02-14 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. CP-8-02 TO AMEND CHARTING THE COURSE TO 2015: THE YORK COUNTY COMPREHENSIVE PLAN TO CHANGE THE COMMERCIAL AREA DESIGNATION IN LACKEY FROM LIMITED BUSINESS TO GENERAL BUSINESS AND TO EXPAND THE GENERAL BUSINESS DESIGNATION TO ENCOMPASS AN ADJACENT AREA CURRENTLY DESIGNATED HIGH DENSITY RESIDENTIAL

WHEREAS, the York County Board of Supervisors has sponsored Application No. CP-8-02, which proposes that the commercial designation in Lackey be changed from *Limited Business* to *General Business* and that it also be expanded to encompass an adjacent area currently designated *High Density Residential*; and

WHEREAS, the Board has proposed this amendment in recognition of the designation of Lackey as a HUBZone under the federal Small Business Administration program guidelines and based on a concern that the full economic potential associated with the HUBZone status may not be able to be fully realized given the limited range of commercial opportunities allowed under the current Comprehensive Plan designations; and

WHEREAS, said application has been referred to the York County Planning Commission for review and recommendation in accordance with applicable procedures; and

WHEREAS, the Planning Commission has recommended approval of the proposed amendments; and

WHEREAS, the Board of Supervisors has determined that it would be appropriate to approve the proposed Comprehensive Plan changes in order to set the policy framework for an expansion of the range of commercial opportunities available in the Lackey community.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 3rd day of September, 2002, that it does hereby approve Application No. CP-8-02 to adopt the following amendments to Charting the Course to 2015: The York County Comprehensive Plan:

1. Amend the 2015 Land Use map to change the commercial designation in Lackey from *Limited Business* to *General Business* and to extend the depth of the commercial area between Baptist Road and Dogwood Road to approximately 500 feet from Route 238, thus changing the designation of approximately 9 acres from *High Density Residential* to *General Business*, as shown on the map attached to the County Administrator's report to the Board dated August 15, 2002.
2. Amend the text on page 90 of the Plan to read as shown in the attachment to the County Administrator's report to the Board dated August 15, 2002.

On roll call the vote was:

Yea:	(4)	Noll, Burgett, Shepperd, Wiggins
Nay:	(1)	Zaremba

Chairman Wiggins then called to order a public hearing on Application No. ZM-66-02 which was duly advertised as required by law. Proposed Ordinance No. 02-15 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZM-66-02 TO AMEND THE YORK COUNTY ZONING MAP BY RECLASSIFYING APPROXIMATELY 27 ACRES OF LAND LOCATED ON OLD WILLIAMSBURG ROAD (ROUTE 238) IN THE LACKEY COMMUNITY FROM NB (NEIGHBORHOOD BUSINESS) AND R13 (HIGH DENSITY SINGLE FAMILY RESIDENTIAL) TO GB (GENERAL BUSINESS)

There being no one present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance No. 02-15 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZM-66-02 TO AMEND THE YORK COUNTY ZONING MAP BY RECLASSIFYING APPROXIMATELY 27 ACRES OF LAND LOCATED ON OLD WILLIAMSBURG ROAD (ROUTE 238) IN THE LACKEY COMMUNITY FROM NB (NEIGHBORHOOD BUSINESS) AND R13 (HIGH DENSITY SINGLE FAMILY RESIDENTIAL) TO GB (GENERAL BUSINESS)

WHEREAS, the York County Board of Supervisors has sponsored Application No. ZM-66-02, which proposes the reclassification of certain parcels in Lackey from NB-Neighborhood Business and R13-High Density Single Family Residential to GB-General Business; and

WHEREAS, the Board proposed this amendment in recognition of the designation of Lackey as a HUBZone under the federal Small Business Administration program guidelines and based on a concern that the full economic potential associated with the HUBZone status may not be able to be fully realized given the limited range of commercial opportunities allowed under the current NB-Neighborhood Business classification; and

WHEREAS, said application has been referred to the York County Planning Commission for review and recommendation in accordance with applicable procedures; and

WHEREAS, the Planning Commission has recommended approval; and

WHEREAS, the Board of Supervisors has determined that it would be appropriate to approve the proposed reclassification in order to expand the range of commercial opportunities available in the Lackey community.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 3rd day of September, 2002, that it does hereby approve Application No. ZM-66-02 to amend the York County Zoning Map by reclassifying the following parcels, as indicated:

- ? Reclassify from NB-Neighborhood Business to GB-General Business:
Parcel Nos. -17-37A, 17-106, 17-106A, 17-107, 17-108, 17-109, 17-110, 17-110A, 17-112, 17-113, 17-114, 17-114A, 17-114B, 17-115, 17-116, 17-118, 17-119, 17-120, 17-121, 17-128, 17-129, 17-129G, 17-130
- ? Reclassify from R13 to GB:
Parcel Nos. - 17-67, 17-68, 17-71A
- ? Reclassify from R13 and NB to GB:

Parcel Nos. – 17-65, 17-66, 17-8-1, 17-8-2, 17-8-3

On roll call the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins
Nay: (0)

APPLICATION NO. ZT-67-02, YORK COUNTY PLANNING COMMISSION

Mr. Carter made a presentation on Application No. ZT-67-02 to amend the York County Zoning Ordinance to incorporate changes to the State Code to reflect the five-year term of validity for site plans and to allow replacement of nonconforming manufactured housing units. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 02-16.

Discussion followed concerning replacement trailers on non-conforming property.

Chairman Wiggins then called to order a public hearing on Application No. ZT-67-02 which was duly advertised as required by law. Proposed Ordinance No. 02-16 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-67-02 TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) BY REVISING SECTION 24.1-505 DEALING WITH SITE PLAN VALIDITY AND SECTION S 24.1-801 AND 802 DEALING WITH REPLACEMENT OF NONCONFORMING MANUFACTURED HOUSING UNITS

There being no one present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance No. 02-16 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-67-02 TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) BY REVISING SECTION 24.1-505 DEALING WITH SITE PLAN VALIDITY AND SECTION S 24.1-801 AND 802 DEALING WITH REPLACEMENT OF NONCONFORMING MANUFACTURED HOUSING UNITS

WHEREAS, the York County Planning Commission has sponsored Application No. ZT-67-02, which proposes the amendment of Sections 24.1-505, 801 and 802 of the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate changes necessary to conform with the requirements of the Code of Virginia; and

WHEREAS, said application has been referred to the York County Planning Commission for review and recommendation in accordance with applicable procedures; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on the application and has recommended approval of the proposed amendments; and

WHEREAS, the Board has determined that it would be appropriate to approve the proposed amendments; and

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 3rd day of September, 2002, that it does hereby approve Application No. ZT-67-02 to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) as follows:

Sec. 24.1-505. Review and approval procedures for site plans.

- (i) Pursuant to Section 15.2-2261, Code of Virginia, final approval of a site plan submitted under the provisions of this article shall expire five(5) years after the date of such approval or, if later, upon the expiration of any building permits or renewals thereof issued for any valid and unexpired site plan. The application for and approval of minor modifications to an approved site plan shall not extend the period of validity of such plan. Notwithstanding the five (5)-year term of validity, nothing shall preclude the application, to the greatest extent possible, of the terms of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act, or the application of the provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency .

ARTICLE VIII. NONCONFORMING USES

Sec. 24.1-800. Continuation of existing uses.

If, at the time of the adoption of this chapter or any amendment thereto, any use, lot, or structure is being used in a manner or for a purpose which does not conform to the regulations of the district in which it is located, but which was legal at the time of its creation and which is not prohibited by any other law or ordinance, the use, lot, or structure may be continued, without regard to any change of occupancy or ownership. Such use, lot, or structure shall be deemed a nonconforming use and shall be subject to the provisions of this article.

Sec. 24.1-801. Nonconforming uses.

- (a) *Enlargement or extension.* A nonconforming use shall not be enlarged, extended, reconstructed, or structurally altered except in conformance with the provisions of this section.
 - (1) Structural additions, either attached or detached, may be made to single-family detached residences located in non-residential districts provided that such additions comply with all applicable setback and yard requirements for the district in which located and that the minimum open space provisions for said district are observed.
 - (2) No other nonconforming uses shall be enlarged or extended in any way except

and unless the board shall authorize such enlargement or expansion through the issuance of a special exception which shall be processed and administered in the same way as are special use permits, provided, however, in addition to the standards set out in article I, the board shall consider whether the character of the existing use will be preserved in the event of the proposed enlargement. All owners of property located within five hundred feet (500') [150m] of the subject parcel, whether abutting or not, shall be sent notice of public hearings pertaining to the request. In no case shall the nonconforming use be permitted to expand by more than fifty percent (50%) of its size measured in building floor area on the date that it became nonconforming.

- (b) *Discontinuance.* In the event a nonconforming use ceases for any reason for a period of more than two (2) consecutive years, such nonconforming use shall not be reestablished. For purposes of this section, the term "discontinued" shall mean a cessation of a use or of any portion of a use, regardless of any intent by the user or owner to reestablish the use in the future. Discontinuance shall not be synonymous with abandonment and this shall be construed to incorporate both time and place, such that if the nonconforming use ceases in a particular structure or location for more than two (2) years even though it continues elsewhere on the same lot or parcel, the nonconforming use may not be reestablished in the structure or location where it was discontinued.
- (c) *Damage or destruction.* A nonconforming use which is damaged or destroyed by a cause beyond the control of the owner may be reestablished or reconstructed within two (2) years of the date of such damage or destruction provided, however, that such reestablishment or reconstruction shall not have the effect of enlarging or extending the nonconforming use, unless in conformance with the provisions of section 24.1-801(a) above. After two (2) years, all nonconforming use rights shall be lost. Reconstruction of nonconforming structures shall be in accordance with the terms of section 24.1-802. Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured housing unit from property and its replacement with another comparable manufactured housing unit in accordance with section 24.1-802(c).
- (d) *Changes in use.* A nonconforming use may at any time, upon approval of a site plan submitted in accordance with article V of this chapter, be changed to a conforming use or to a use which is more nearly conforming with the regulations of the district in which it is located.
- (e) *Movement.* Except as provided in section 24.1-801(a) above, no nonconforming use shall be moved in whole or in part on the same lot or parcel or to any other lot or parcel which is not properly zoned to permit such use.
- (f) *Construction.* Except as provided in section 24.1-801(a) above, no additional structures which do not conform to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

Sec. 24.1-802. Nonconforming structures.

- (a) *Enlargement or alteration.* No structure which is nonconforming by reason of a conflict with the setback, yard, height or similar regulations of the district in which located may be enlarged, extended, reconstructed, structurally altered or moved in any way

which increases its nonconformance with the applicable setback, yard, height or similar regulations of the district in which located. Except as may be provided in article II relative to front yards in built-up areas, any addition to nonconforming structures shall comply in all respects with the applicable setback, yard, height or similar regulations of the district in which located.

- (b) *Damage or destruction.* A nonconforming structure which is damaged or destroyed by a cause beyond the control of the owner may be reconstructed at the location of its original foundation, or at a location on the lot which is conforming or more nearly conforming provided that such reconstruction occurs within two (2) years of such damage or destruction and provided that a site plan submitted in accordance with article V of this chapter is approved. Should such reconstruction not occur within two (2) years, or in the event the damage or destruction, regardless of its extent, was initiated or caused by the owner of the structure, such structure may be reconstructed only in full accordance with the provisions of this chapter.
- (c) *Special provisions for manufactured housing units.* Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured housing unit from property and its replacement with another comparable manufactured housing unit that meets the current HUD manufactured housing code, provided that the degree of nonconformity with any yard or setback requirements applicable to the district in which located does not increase. Such replacement unit shall retain the valid nonconforming status.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins
 Nay: (0)

APPLICATION NO. ST-9-02, YORK COUNTY PLANNING COMMISSION

Mr. Carter made a presentation on Application ST-9-02 to amend the York County Subdivision Ordinance to incorporate changes made necessary by recent amendments to the Code of Virginia pertaining to the term of validity for preliminary plans. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 02-17.

Chairman Wiggins called to order a public hearing on Application No. ST-9-02 which was duly advertised as required by law. Proposed Ordinance No. 02-17 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ST-9-02 TO AMEND THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER 20.5, YORK COUNTY CODE) BY REVISING SECTION 20.5-30(d) AND ADDING SECTION 20.5-31.1 TO REFLECT RECENT CHANGES IN THE CODE OF VIRGINIA

There being no one present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mr. Zaremba moved the adoption of proposed Ordinance No. 02-17 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ST-9-02 TO AMEND THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER 20.5, YORK COUNTY CODE) BY REVISING SECTION 20.5-30(d) AND ADDING SECTION 20.5-31.1 TO REFLECT RECENT CHANGES IN THE CODE OF VIRGINIA

WHEREAS, the York County Planning Commission has sponsored Application No. ST-9-02, which proposes the amendment of various sections of the York County Subdivision Ordinance (Chapter 20.5, York County Code) to incorporate changes necessary to conform with the requirements of the Code of Virginia; and

WHEREAS, said application has been reviewed by the Planning Commission in accordance with applicable procedures; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on the application and has recommended approval of the proposed amendments; and

WHEREAS, the Board has determined that it would be appropriate to approve the proposed amendments to ensure consistency with the Code of Virginia; and

NOW, THEREFORE, BE IT ORDAINED by the York County board of Supervisors this the 3rd day of September, 2002, that it does hereby approve Application No. ST-9-02 to amend the York County Subdivision Ordinance (Chapter 20.5, York County Code) as follows:

Sec. 20.5-30. Final plat.

- (d) Term of validity. The subdivider shall have six (6) months from the date of official notification of approval of the final plat within which to have the record plat filed and recorded by the clerk of the circuit court. Failure to do so shall make approval null and void, and the subdivider shall be required to return the approved copy of the final plat to the agent in order that it may be so marked. Reapproval shall require resubmission in full compliance with the regulations then in effect. Where the subdivision involves the construction of facilities to be dedicated for public use and the subdivider has commenced the construction of such facilities with surety approved by the agent, or where the subdivider has furnished surety in accordance with Section 20.5-108 of this chapter, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement covering construction of required public improvements, whichever is greater.

Section 20.5-31.1. Terms of Validity

- (a) Notwithstanding the provisions of Sections 20.5-28(d) and 29(d), if at the end of three (3) years from the date of approval of a preliminary plan a subdivider has not submitted a final subdivision plat, or has not diligently pursued approval of a submitted final plat,

then the agent may, upon ninety (90) days written notice by certified mail to the subdivider, revoke the preliminary plan approval. Diligent pursuit of approval of the final subdivision plat shall mean that the subdivider has incurred extensive obligations and substantial expenses relating to the submitted final subdivision plat or modifications thereto. The agent's written notice shall cite the specific facts upon which the revocation is based. In any event, when a final subdivision plat has been timely submitted but not approved the maximum term of validity for the associated preliminary plan shall be five years.

- b) Following the expiration or revocation of any preliminary plat pursuant to subsection (a) above, any subdivision plan considered for the subject property shall be submitted and processed in accordance with all applicable procedures for new submissions.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins
Nay: (0)

CONSENT CALENDAR

Mr. Burgett moved that the Consent Calendar be approved as submitted, Item Nos. 5, 6, and 7, respectively.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins
Nay: (0)

Thereupon, the following resolutions were adopted:

Item No. 5. STREET ACCEPTANCES: Resolutions R02-144 and R02-156

Resolution R02-144:

A RESOLUTION REQUESTING THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO INCLUDE STREETS IN THE LAKES AT DARE, SECTIONS FIVE-A AND FIVE-B, INTO THE SECONDARY SYSTEM OF STATE HIGHWAYS

WHEREAS, the following streets, which are shown on plats recorded in the Clerk's Office of the Circuit Court of York County, have been constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of State Highways; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has inspected these streets and found them to be acceptable for maintenance; and

September 3, 2002

WHEREAS, the York County Board of Supervisors does hereby guarantee unencumbered rights of way, as described on the following Form SR-5A, plus the necessary easements for cuts, fills, and drainage for these streets;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 3rd day of September, 2002, that the Virginia Department of Transportation be, and it hereby is, requested to add and maintain the streets described on the following Form SR-5A as part of the Secondary System of State Highways, pursuant to Section 33.1-229, Code of Virginia, 1950 amended, and the regulatory requirements of VDOT.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the developer of The Lakes at Dare, Sections Five-A and Five-B, and to the Resident Engineer of the Virginia Department of Transportation.

In the County of York

By resolution of the governing body adopted September 3, 2002,

The following Form SR-5A is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

Report of Changes in the Secondary System of State Highways

Form SR-5A

Secondary Roads Division 5/1/99

Project/Subdivision**The Lakes at Dare, Sections Five-A and Five-B**

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, New subdivision street

Pursuant to Code of Virginia Statute: **§33.1-229**

Route Number and/or Street Name

Egret Court, State Route Number 1186

Description: **From:** Route 1180 (Water Fowl Drive)

To: End of cul-de-sac

A distance of: 0.08 miles.

Right of Way Record: Filed with the Clerk of the Circuit Court on 12/06/1999, Plat Book 13, Pages 67-68, with a width of 50 ft.

Tern Court, State Route Number 1185

Description: **From:** Route 1180 (Water Fowl Drive)

To: End of cul-de-sac

A distance of: 0.21 miles.

Right of Way Record: Filed with the Clerk of the Circuit Court on
09/20/1999, Plat Book 13, Pages 48- 49, with a width of 50 ft.

Water Fowl Drive, State Route Number 1180

Description: **From:** Route 1183 (Ibis Place)
To: Route 1186 (Egret Court)
A distance of: 0.08 miles.

Right of Way Record: Filed with the Clerk of the Circuit Court on
12/06/1999, Plat Book 13, Pages 67- 68, with a width of 50 ft.

Resolution R02-156:

A RESOLUTION REQUESTING THE VIRGINIA DEPARTMENT OF
TRANSPORTATION TO INCLUDE A STREET IN ENDVIEW WOODS,
SECTION TWO, INTO THE SECONDARY SYSTEM OF STATE HIGH-
WAYS

WHEREAS, the following street, which is shown on a plat recorded in the Clerk's Office of the Circuit Court of York County, has been constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of State Highways; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has inspected this street and found it to be acceptable for maintenance; and

WHEREAS, the York County Board of Supervisors does hereby guarantee unencumbered rights of way, as described on the following Form SR-5A, plus the necessary easements for cuts, fills, and drainage for this street;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 3rd day of September, 2002, that the Virginia Department of Transportation be, and it hereby is, requested to add and maintain the street described on the following Form SR-5A as part of the Secondary System of State Highways, pursuant to Section 33.1-229, Code of Virginia, 1950 amended, and the regulatory requirements of VDOT.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the developer of Endview Woods, Section Two, and to the Resident Engineer of the Virginia Department of Transportation.

In the County of York

By resolution of the governing body adopted September 3, 2002,
The following Form SR-5A is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

Report of Changes in the Secondary System of State Highways
Form SR-5A
Secondary Roads Division 5/1/99

Project/Subdivision
Endview Woods, Section Two

September 3, 2002

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, New subdivision street

Pursuant to Code of Virginia Statute: **§33.1-229**

Route Number and/or Street Name

Maurice Court, State Route Number 1060

Description: **From:** Route 238 (Old Williamsburg Road)

To: End of Cul-de-sac

A distance of: 0.10 miles.

Right of Way Record: Filed with the Clerk of the Circuit Court on 08/19/1999, Plat Book 13, Pages 38-39, with a width of 44 ft.

Item No. 6. PUBLIC SEWER EXTENSION AGREEMENT: Resolution R02-157

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS JAMES MILL FAMILY SUBDIVISION, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, James L. Clayton Enterprises has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve eleven new residential lots; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$20,625.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 3^d day of September, 2002, that the Board approves the extension of the County's public sewer system to serve the proposed development, James Mill Family Subdivision, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension

agreement with James L. Clayton Enterprises for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 7. SCHOOL CAPITAL PROJECT FINANCING: Resolution R02-158

A RESOLUTION AUTHORIZING YORK COUNTY TO SUBMIT AN APPLICATION TO VPSA FOR \$8,400,000

WHEREAS, the Board of Supervisors has received a request from the York County School Board (the "School Board") to contract a debt and issue general obligation bonds of the County in the maximum amount of \$8,400,000 to finance certain capital improvements for public school purposes (the "Bonds") and to sell such bonds to the Virginia Public School Authority ("VPSA"); and

WHEREAS, the Board of Supervisors has determined that it may be necessary or desirable to advance money to pay the costs for such capital projects for public school purposes (the "Projects") and to reimburse such advances with proceeds of one or more financings;

NOW, THEREFORE, BE IT RESOLVED BY THE YORK COUNTY BOARD OF SUPERVISORS this the 3rd day of September, 2002:

1. The Board of Supervisors adopts this declaration of official intent under Treasury Regulations Section 1.150.2. The Board of Supervisors reasonably expects to reimburse advances made or to be made by the County or the School Board to pay the costs of acquiring, constructing and equipping the Projects from the proceeds of the Bonds to be issued in the maximum amount of \$8,400,000.

2. The County Administrator is authorized and directed to submit an application to the VPSA in order to sell the Bonds to the VPSA at the Fall 2002 VPSA bond sale.

3. This resolution shall take effect immediately upon its adoption.

CLOSED MEETING. At 8:54 p.m. Mr. Zaremba moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(3) of the Code of Virginia pertaining to the disposition of public property.

On roll call the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Burgett
Nay: (0)

Meeting Reconvened. At 9:23 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

September 3, 2002

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM
OF INFORMATION ACT REGARDING MEETING IN CLOSED MEET-
ING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 3rd day of September, 2002, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins
Nay: (0)

Meeting Adjourned. At 9:25 p.m. Mr. Zaremba moved that the meeting be adjourned to 6:00 p.m., Tuesday, September 10, 2002, in the East Room, York Hall, for the purpose of conducting a work session.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins
Nay: (0)

James O. McReynolds, Clerk
York County Board of Supervisors

Donald E. Wiggins, Chairman
York County Board of Supervisors